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**The situation of democracy and human rights in Haiti**

# The situation of democracy and human rights in Haiti

## Report of the Secretary-General

## I. Introduction

1. The present report is the second of two reports on the implementation of General Assembly resolution 53/95 of 8 December 1998, by which the Assembly renewed the mandate of the United Nations component of the International Civilian Mission in Haiti (MICIVIH), undertaken jointly with the Organization of American States (OAS), until 31 December 1999.

2. Prepared in consultation with the General Secretariat of the Organization of American States, the report describes the activities of MICIVIH since May 1999 in carrying out its mandated responsibilities of providing institutional assistance (with particular reference to the police, judiciary, the penal system, the Office of the Ombudsman and civil society organizations), supporting the promotion and protection of human rights and verifying observance of individual rights, fundamental freedoms and due process requirements. It also gives an overview of the changes that have affected the composition, mandate and *modus operandi* of the Mission over the years and presents observations, conclusions and recommendations. The Mission's activities and presence in the field were adversely affected by the downsizing of its OAS component at the end of June 1999, a result of funding difficulties.

3. MICIVIH has continued to participate in the activities of the United Nations system in Haiti including joint projects with the specialized agencies on themes pertaining to the rights of women and of children in particular. Administrative, logistic and communications support continued to be provided to MICIVIH by the United Nations Civilian Police Mission in Haiti (MIPONUH).

## II. Political context

4. Since my report of 10 May 1999 (A/53/950) the preparations to get the electoral process under way and manoeuvring by the various political parties have dominated the political context. This early positioning for political advantage has taken place in a worsening political climate marked by increased polarization and intolerance, a rise in reports of threats and of acts of intimidation and harassment and continuing mutual mistrust between the political actors and between the latter and the Government, as well as repeated outbreaks of street violence, some undoubtedly politically motivated.

5. Organizing elections in such an atmosphere is no easy task as the decisions and motives of the President of Haiti, René Préval, and of the Provisional Electoral Council (*Conseil electoral provisoire* (CEP)) are constantly questioned and second-guessed. Questions are being raised about the will and capacity of those involved to hold well organized elections within a reasonable time-frame. In mid-June, after lengthy consultations with the political parties,

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CEP made public an initial draft of the Electoral Law. These consultations were, however, boycotted by two major parties, the *Organisation du peuple en lutte* (OPL) and *Fanmi Lavalas*.

6. Despite some dissatisfaction over the designation of the document as a law in the absence of a sitting Parliament, it was generally accepted by most of the political parties. This was facilitated by initial indications that CEP would disregard the contested results of the first round of the partial Senate elections. These elections had seen two *Fanmi Lavalas* candidates emerge as outright winners and had sparked the protracted political crisis. Critical of the intentions of CEP, *Fanmi Lavalas* threatened to challenge CEP in court, while some supporters sought to intimidate it by promising to stage massive public demonstrations and disturbances. The decision of CEP to institute voter identity cards with a photograph as a means of preventing fraud also drew the ire of *Fanmi Lavalas*, which claimed that the difficulty of producing such cards in the many isolated pockets of the country would disenfranchise its electorate.

7. Executive hesitation and reservations about the draft Electoral Law, in particular over the use of electoral photo-identity cards and reference to the specific number of Senate seats to be contested, delayed its signing until 16 July 1999. The law's promulgation without the signatures of the President and of the ministerial Cabinet increased the opposition's sense of unease and suspicion.

8. CEP has since started to put the electoral apparatus in place, with the installation in August of the three-member teams of officials that comprise the 11 departmental election offices. These teams, however, still lack the resources to function effectively. The recruitment of a larger number of officials for the next level of communal election offices is almost completed. Protests and acts of intimidation were reported in certain places where the composition of the communal and departmental election offices were contested.

9. In response to concerns expressed in many quarters about the capacity of CEP to respect its initial, but unofficial, date of 14 November 1999 for the first round of elections, the Council held a series of consultations with political parties, which resulted in a timetable calling for the first-round of elections to take place on 19 December 1999 and the second round on 16 January 2000. The President, however, had reservations over the feasibility of the proposed calendar. After time-consuming consultations between the President and CEP, a decree was issued, on 29 September, formally announcing that the first round of elections would be held on 19 March 2000, although a date for the second round was not mentioned. Finally, on 6 October, CEP officially announced that the first and second round of elections would take place on 19 March and 30 April 2000, respectively.

10. The overwhelming majority of political parties have indicated their willingness to participate in the elections, a sign of improvement over previous ballots. There are also encouraging signs of regroupings among the many political parties in the country. Underlining an increasing awareness that they are also stakeholders in the strengthening of the democratic process, civil society organizations are preparing to undertake election observation. Despite these welcome and significant developments, there are formidable organizational, logistical, managerial and political obstacles to be overcome by CEP before the elections scheduled for early next year become a reality. The worryingly slow pace of preparations will have to be accelerated.

11. Political intolerance and the consequent infringements on the rights of freedom of speech and peaceful assembly continue to be a source of concern. There were several reported attempts to disrupt the activities of emerging or newly constituted groups, the most egregious example of which was the disruption by pro-Aristide demonstrators of a rally, on 28 May 1999, organized by the private sector and supported by a wide spectrum of civil society organizations and political parties to protest mounting insecurity and what they termed anarchy. The police were criticized by the organizers and participants for their passivity towards the counter-demonstrators and for bringing the rally to a premature end, raising questions about police neutrality. On 24 October, the formal launching of the CEP civic education campaign was halted by hecklers claiming to be pro-Aristide supporters.

12. Human rights associations and activists were again among the targets of acts of harassment and intimidation. In early June, leaflets containing threats were delivered to several organizations, including the Institut Karl Lévêque, the Platform of Haitian Human Rights Organizations and SAKS, a community radio network. The leaflets also requested the population to provide information about the daily schedules of the officials of the above-mentioned organizations and the schools attended by their children.

13. On 18 June 1999, the International Republican Institute announced that, following a series of threats and other incidents of intimidation against its staff and associated organizations beginning in July 1998, it was discontinuing its programmes in Haiti owing to safety concerns. The United States-funded Human Rights Fund temporarily closed its doors following threats against its staff.

14. The prevalence of attacks by armed criminals has heightened the sense of insecurity. It has also deepened the concerns of opposition leaders who interpret this mostly random criminal violence as part of a well-orchestrated plan by those who see political advantage in delaying elections until December 2000 so that they would be held simultaneously with the constitutionally required presidential elections.

15. These concerns have been heightened by the apparent inability of the police to stem the crime wave and by several attacks that may indeed have been politically motivated. On 2 August, in one of a series of such incidents involving OPL officials, shots were fired at the vehicle of the President of the Senate, who was not, however, in the vehicle. On 5 September, the vehicle of the OPL leader, which was being driven by another senior OPL official, was fired at by a lone gunman. The latter was said to have been wounded in the ensuing exchange of shots and to have been whisked away by waiting accomplices. Although the incident took place in an area where frequent incidents of armed crime are reported, a political motive has not been excluded. On 4 September, an explosive device was thrown at the premises of the Chamber of Commerce and Industry.

## III. Institution-building, human rights monitoring and promotion

### A. Haitian National Police

16. The milieu in which the Haitian National Police operated during this period was, as described above, complex: violent street demonstrations, spates of armed crime, public pressure to act against criminals, as well as political pressures, threats and attacks against police (some of them fatal — a total of 19 mostly off-duty policemen have been killed since the beginning of 1999). Many officers have expressed their dissatisfaction over conditions of service and severe logistical constraints. Against this background, the human rights situation deteriorated sharply.

17. The Haitian National Police remains an extremely fragile institution, weakened by internal shortcomings (administrative, disciplinary and operational) and external pressures (ebbing public support and an aggressive *Fanmi Lavalas* campaign against its leadership). Recent developments with regard to the Haitian National Police have been particularly disquieting. The sudden, and so far unexplained, resignation of the Secretary of State for Public Security in early October, the assassination of the person rumoured to replace him, the public affronts to the Director-General of the Haitian National Police as well as the armed attack against the Director of Judicial Police have negatively affected the force. These developments have brought to the forefront questions about the capacity of the Haitian National Police to provide effective security during the forthcoming elections.

18. The campaign of *Fanmi Lavalas* and affiliated groups seeking to obtain the dismissal of the Director-General of the Haitian National Police and the Secretary of State for Public Security led the police command to become overly cautious in the maintenance of order so as to avoid becoming entrapped when responding to street demonstrations and other forms of public disturbance. As a result, the continuing series of violent street demonstrations, marked by vandalism against privately owned vehicles and by attacks against private property, including that of street vendors, contributed to the perception that the authority of the police, and of the State, was being eroded. In addition, the twin scourges of drug-trafficking and criminal activity continued to beset the Haitian National Police, including through the involvement of several high-ranking police officials, four of whom were suspended in September. These latest travails of the leadership of the Haitian National Police were a blow to the recent successes of the force in fighting crime and drug trafficking.

19. The credibility and reputation of the Haitian National Police were damaged by accusations that it was allegedly responsible for the summary execution of 11 individuals arrested during an operation in the Carrefour-Feuilles area in the outskirts of Port-au-Prince on 28 May. This incident gave rise to widespread outrage. The killings occurred only hours after the police were severely criticized for their failure to intervene to end the attempts by the pro-Aristide demonstrators to break-up the rally organized by the Chamber of Commerce. The executions were among 50 killings allegedly caused by the police between April and early June 1999, more than the total for the whole of 1998. Among these cases, and equally disturbing, were reports of 12 disappearances. It is believed that human remains found by MICIVIH on waste ground outside of Port-au-Prince may be linked to eight of the disappearances. The spate of killings appears to have diminished since early June when seven police officers involved in the Carrefour-Feuilles killings were arrested. Six additional killings, most of them under clouded circumstances, or where police alleged they came under fire, have been reported since then. These incidents serve as a sharp warning of the challenges still facing the authorities in establishing a police force that is respectful of human rights and accountable for its actions.

20. The ill-treatment of newly arrested detainees by the police continues, often causing visible and occasionally serious injuries. This suggests that police officers believe that they will not be punished for their actions, a perception reinforced by the lack of investigation by local supervisors. Some instances of torture, during which detainees reported receiving electric shocks or being burnt with cigarettes or lighters, have been recorded. Irregularities in arrest and detention procedures, prolonged detention beyond 48 hours without access to a judge and incomplete and often incorrect recording of information in custody registers in some police stations, problems which have been described in previous reports, also need to be addressed to prevent the institutionalization of these shortcomings.

21. While the Inspectorate General has continued its investigations into illicit police activities and taken swift action against police agents implicated in some cases of human rights abuses, its failure to act against certain repeat offenders or to investigate certain serious incidents of abuse is puzzling. The response of the judiciary and the police to allegations of execution following arrest and disappearance, which MICIVIH presented to the authorities, has been disappointing. Though the Haitian National Police, including members of its new Scientific and Technical Unit (*Bureau scientifique*), went to the site of the remains, accompanied by observers, took away bones and clothing and interviewed a key witness to the arrests, there has apparently been little follow-up, in spite of the gravity of the incidents. Similarly, information presented to the authorities that a group of police, together with armed civilians, had been implicated in at least 16 killings, mostly of suspect criminals, in a Port-au-Prince neighbourhood, appears not to have been seriously investigated.

22. Of 58 Haitian National Police officers currently in detention, 54 are being held in Port-au-Prince, nine in connection with human rights violations. Several others are being held in isolation in police stations, some since June, with no judicial review of their cases. Judicial investigations into police misconduct, particularly in the capital, are few. However, in an innovative approach, a commission of magistrates was eventually established to look into the Carrefour-Feuilles killings, although it has yet to release its findings. A police agent in detention in Les Cayes was brought to trial for a death in custody following a beating that occurred in April. Three police agents detained for the July 1998 death in custody of a detainee were acquitted at criminal assizes in June in Fort Liberté. Investigations into the manhandling of a bus driver and into other cases against police in Cap Haïtien suffered a setback after the Ministry of Justice dismissed a judge who refused to accept a transfer. The transfer appeared to be related to the fact that the judge had issued a summons against the local police commissioner because the latter had failed on several occasions to appear in court.

23. The Haitian National Police continues its institutional consolidation, despite the political constraints, the lack of resources and the dangers of the profession. Two new classes graduated during the reporting period and, in addition, a new Scientific and Technical Unit was set up to improve the quality of criminal investigations. The jointly developed Haitian National Police/MICIVIH training module on conflict resolution and human rights was presented to police around the country, but was suspended following the downsizing of the Mission. MICIVIH also continued to present its module on violence against women and children to new recruits. Both courses were described in my previous report. Two of the Mission's local consultants gave training courses on these issues to police instructors responsible for human rights training at the Academy. The Mission's consultants also began to prepare a training guide on human rights in the electoral process for the police.

## B. Prisons and detention centres

24. As of September 1999, MICIVIH recorded a total prison population of 3,888 inmates, of whom 80 per cent were in pre-trial detention. A set of internal guidelines for prisons, issued on 30 June, which had been awaiting ministerial approval since 1997, sets out standards for prison conditions and the treatment of detainees. However, it would appear that the regulations have not yet been distributed to prison officers by the Directorate of the Penitentiary Administration (*Direction de l'administration pénitentiaire*). Management of prisons needs to be improved so that these standards are met as far as possible. Training of prison guards has been suspended since 1998 because of delays in finding a new training centre, which has delayed the deployment of a group of newly appointed inspectors.

25. Conditions in some prisons and detention centres, in particular, overcrowding, lengthy confinement to cells, fluctuating food supplies, inadequate meals and poor sanitary facilities, fell below acceptable standards at times, frequently placing detainees' health, and at times lives, at risk. Even though the budget of the Directorate of the Penitentiary Administration has the capacity to cover all food supplies, poor management resulted in many prisoners receiving only one meal a day. An emergency nutritional programme put in place by the International Committee of the Red Cross (ICRC) in Gonaïves and in the National

Penitentiary led to improvements in the health of some 200 detainees who had been diagnosed as suffering from malnutrition. The authorities of the Directorate need to ensure that these improvements are maintained.

26. It is hoped that the presence of a new Chief Medical Officer, as of July (the post having been vacant since October 1998), when he began visiting the prisons together with representatives of ICRC, will lead to the implementation of remedial measures regarding deficiencies in medical treatment and supplies. Some steps have already been taken. In August, MICIVIH noted the increased presence of nurses and physicians in Port-au-Prince prisons and, after several months of delay, Mirebalais prison finally received medical supplies. Representatives of ICRC and the Directorate also evaluated sanitary conditions in at least three prisons with a view to making structural improvements. Poor conditions in Les Cayes prison and Croix des Bouquets detention centre were among those issues raised by MICIVIH with the Ministry of Justice.

27. Concerns about incidents of ill-treatment involving some 40 detainees were raised with the authorities. Prisoners in Les Cayes broke out of their cells to protest the beating of two detainees who had tried to escape. Some detainees, subsequently transferred to the National Penitentiary, were ill-treated by prison guards, but high-ranking prison officials claimed that other detainees were responsible. A guard, who was reportedly responsible for the beating of 26 detainees in Gonaïves in June, was merely given a warning.

28. MICIVIH worked closely with the legal assistants of the Directorate of the Penitentiary Administration, accompanying them on visits to Cap Haïtien, Grande Rivière du Nord, Fort Liberté and Saint-Marc prisons, where they examined prison registries and prisoner dossiers to identify problems of pre-trial detention and cases of illegal detention. The Mission also responded favourably to a proposal from the Directorate to assign one of its observers full-time to the team working at the National Penitentiary, as part of its capacity-building work.

## C. Justice system

29. The shortcomings and systemic weaknesses that plague the functioning of the judicial system and which have been described at length in previous reports persisted. They were most apparent in the areas of respect for judicial procedures and in the preparation of cases for trial, where they continued to constitute serious infringements of the right to individual liberty and of due process. Among the most glaring and unacceptable infringements were both the refusal of the State prosecutor in Port-au-Prince to give effect to judicial release orders and the problem of lengthy pre-trial detention. However, the appointment of a new Minister of Justice in March 1999 has brought in a new approach to some of these problems and led to the relaunching of the stalled judicial reform process.

30. Public denunciation of the non-compliance with habeas corpus writs and frequent representations over the past years to the previous Minister of Justice, the incumbent and other senior officials by the Mission have not yet had the desired effect of ending a problem, which brings into question the will of the Haitian authorities to respect the rule of law. However, a recent suggestion by MICIVIH to set up a commission to study these long outstanding cases, some of which have a political dimension, and to make recommendations to resolve them, has been adopted by the Minister of Justice. MICIVIH has underlined the urgency for this commission to conclude its work. It is hoped that the recent transfer of the State prosecutor in Port-au-Prince and some of his deputies will end this ongoing situation against the rule of law. The Minister of Justice should ensure that court orders of release are enforced immediately.

31. A number of initiatives have recently been taken to address the other persistent problem of lengthy pre-trial detention. The Minister has called for an increase in the number of weekly sittings of the criminal court. Other measures to reduce the number of outstanding cases and to speed up processing include recourse to an old law, which permits accelerated processing of *flagrant delit* cases, and the holding of long-delayed criminal assizes. The organization of these assizes, in some places the first for well over a year, and, in Fort Liberté and Gonaïves, the first for nearly two years, led to the release or sentencing of a number of detainees who had been held in prolonged pre-trial detention for up to four years. In Port-au-Prince, which has the highest percentage of cases awaiting trial, the first criminal assizes since July 1998 began in early October but were suspended after two days because of problems of forming juries. Their postponement was particularly disturbing given the high number of detainees awaiting trial by jury in the capital.

32. In order to help address these problems, and following a prisoner audit, in August MICIVIH presented updated lists of detainees held in pre-trial detention since 1995 and 1996 in the National Penitentiary to the respective judges. Of the 175 detainees, 87 are awaiting trial by criminal assizes. A small number of other detainees, held for many months without trial were released in different parts of the country after the Mission urged authorities to review their cases. In Pétionville prison the average time spent in pre-trial

detention had increased from 291 days in November 1998 to 412 days by August 1999.

33. Seventy-nine detainees, some held since 1996 and 1997, were released on the orders of the Port-au-Prince State prosecutor, although the criteria for releasing them were not always clear. Some recent detainees facing serious charges were released, whereas others, on lesser charges, who had been held for prolonged periods of pre-trial detention, remained in prison. The earlier recourse to ad hoc mechanisms such as the Unit to Control Pre-trial Detention met with mixed results, primarily because of the lack of support from magistrates. The Unit resumed its activities in September when it started interviewing all detainees held without trial since 1995 in the National Penitentiary. At the request of the Justice Ministry, MICIVIH carried out a review of the Unit and made a number of recommendations, including the need to improve the legal skills of the assistants within the prison system. To this end, the Mission has assigned an observer to help upgrade the skills of legal assistants in the capital's prisons.

34. A group of some 20 detainees in the National Penitentiary began a hunger strike in late September, mostly to draw attention to the lack of judicial progress in their cases, some of them having been detained without trial since 1996. The group also included former members of the military arrested in July 1998 when protesting the non-payment of their pensions. MICIVIH could find no trace of their judicial dossiers in the courts and they were eventually released. The hunger strike ended by 31 October, but nine detainees resumed it a few days later. MICIVIH expressed concerns about the hunger strike to the authorities and issued a press release highlighting the judicial irregularities in these and many other cases.

35. On another front, laxness, venality and corruption within the system have been attacked through special commissions resulting in the dismissal of several officials. This approach has been bolstered by a sizeable increase in the low salaries of judicial officials. The increase, retroactive to May 1999, to be paid in September, will be as high as 300 per cent for persons at the bottom of the pay scale. Increasing salaries will not only enhance the status of a disdained profession, but also attract a higher caliber of professionals. It is also seen as part of an ambitious plan to make justice affordable and available to all. One of the measures envisaged to reduce, if not eliminate, the discriminatory aspects of the system, which have traditionally excluded the majority of the population, is a system of circuit judges. Preliminary discussions on proposals for a programme of legal aid took place between the Ministry of Justice and representatives of bar associations from around the country. The latter have formed themselves into a federation and for the first time issued a photo-identity card to each member as a step towards eliminating impostors.

36. In order to improve the quality of justice rendered, the judicial inspectorate of the Ministry will be reinforced and given the means to assess the functioning of the system in all the jurisdictions. Once again priority is being given to training. A new director, formerly in charge of studies, has been appointed to the Magistrates School, re-instilling a lost dynamism. After a year-long hiatus, the second intake for the Magistrates School was recruited by competitive examination, with training to begin in November. The Mission gave logistical support and observed the exams in some centres. In addition to this 12-month training programme for a group of 40 trainee magistrates, the School will carry out refresher and specialized training courses for judges and judicial auxiliaries. In this regard, training in criminal investigation for examining magistrates and prosecutors, as well as the training of forensic doctors, will take place.

37. With regard to juvenile delinquents, the new Juvenile Court was to have been reopened in October after having been made more secure. MICIVIH helped prepare a draft agreement under which an institution for juveniles run by a priest and the Ministries of Justice and of Social Affairs would work together on literacy and trade training programmes for women and juveniles, to be held in Fort National prison in Port-au-Prince.

38. The Law and Justice Reform Preparatory Committee presented the summarized findings of its deliberations to the Minister of Justice in late July, signalling the end of the preparatory phase. A strategic plan and a short-term action programme have been drawn up. On the prescriptive side, the Committee recommended the establishment of two units, one to redraft the legal codes and another to centralize all information related to the judicial reform process in the Latin American and Caribbean region. The implementation of these tasks will require the establishment of a national judicial reform committee.

39. It is hoped that the recently adopted remedial measures, which appear to herald a new will to change a hidebound system, will have a desired immediate effect, while the long-term solutions that judicial reform will bring are awaited. The Mission is also encouraging the urgent implementation of the action plan presented by the former Minister of Justice to the international community in July 1998, which sets out proposals in the areas of access to justice, institutional development and international

cooperation. MICIVIH is of the view that the establishment of mixed teams of Haitian and international experts, as proposed by the Ministry in September, will facilitate the implementation of the action plan. These teams would be able to recommend a number of measures to bring about short and long-term changes through the drafting of ministerial circulars and laws to harmonize Haitian law and institutional practice with commitments made by the ratification of international human rights treaties.

## D. Impunity and compensation

40. On 28 September, MICIVIH published its report on impunity and compensation, a draft of which had been submitted to the Government in May. Based on three years of research, the report analyses legal proceedings in five jurisdictions (Port-au-Prince, Hinche, Mirebalais, Saint-Marc and Gonaïves) related to the prosecution of human rights abuses that occurred during the *coup d'état* period, looks at initiatives by the Government, civil society organizations and the international community in response to the issue of impunity and compensation and concludes with a wide range of recommendations for addressing these issues.

41. The Ministry of Justice assigned additional resources to the judicial team working on the Raboteau massacre case. As a result, preparations for the trial accelerated. A partial reconstruction of events took place at the scene of the massacre in June. Following criticism, in particular from local victims' associations, the State prosecutor was eventually replaced. Two experts recruited by MICIVIH presented a report on military aspects of the case to the Ministry of Justice in August. A critical threshold has now been crossed, with the completion of the preliminary investigation and the finalization of the necessary briefs by the State prosecutor (*réquisitoire définitif*) and the examining magistrate, who referred the case for trial (*ordonnance de renvoi*), in September. Of those detained, 22 were formally committed for trial, while charges were dropped against eight others for lack of evidence. It is of great concern, however, to MICIVIH that, in spite of the fact that no appeal was lodged against the release orders by the prosecutor, the release orders have never been executed.

42. The Government also announced that, in accordance with the 1998 Judicial Reform Law, it would create a commission of judges to investigate serious human rights violations, in particular three massacres with strong symbolic value attributed to security forces in the past. As indicated above, such a commission has already been appointed to look into the 11 alleged executions by police officers in May 1999. Several preliminary meetings also took place with the Minister of Justice and representatives of non-governmental organizations regarding the establishment of a national compensation committee as recommended by the National Truth and Justice Commission and by MICIVIH. After a prolonged campaign, victims from Cité Soleil, whose homes were burned by the *Front révolutionnaire pour l'avancement et le progrès d'Haiti* (FRAPH) in December 1993, won compensation from the Government to rebuild their homes.

43. MICIVIH has reiterated its support for the return, in their entirety, of the FRAPH/Armed Forces of Haiti (FAd'H) documents in the belief that they could be useful in the prosecution of human rights violations committed during the *coup d'état* period.

44. Haitian associations, including the Platform of Haitian Human Rights Organizations and the *Mouvement d'appui aux victimes de violence*, consolidated their activities in this field with the publication of reports and the holding of conferences, some of which were supported by MICIVIH. Preparations were under discussion for a national conference on impunity to be held in 2000.

## E. Office of the Ombudsman

45. The Office of the Ombudsman (Office de la protection du citoyen) continues to suffer from poor funding and lack of State support. Nevertheless, it was able to expand its activities. It took on two new investigators and has opened a regional office in Gonaïves. The new investigators spent a week with MICIVIH observers to develop investigating and reporting techniques. The training included field trips and participating in inquiries. With MICIVIH's support, the Office drafted its first annual report which, *inter alia*, analysed the nature and number of complaints processed by the Office and recommended the ratification of a number of international human rights treaties. In July the Office gave a well-attended press conference to publicize its activities, which also included the publication of a booklet on the rule of law.

46. Two MICIVIH consultants continued to assist the work of the Office during this period, one of whom completed his contract in September. A third consultant spent two weeks in Haiti gathering information in order to obtain donor funding for the Office.

## F. Human rights promotion and advocacy

47. MICIVIH's programme of human rights promotion and advocacy was severely disrupted by the downsizing of the Mission, as a consequence of which many of its training and seminar programmes were suspended. As the reduced Mission moved closer to the end of its mandate, its work has focused increasingly on developing and carrying out projects in partnership with government ministries, organizing training-of-trainer courses, reinforcing the capacity of local non-governmental organizations and working with a network of committees set up over the past two years to monitor prisons and police custody. Activities included a week's training in Port-au-Prince for representatives of these committees in July and joint visits and investigations. Membership of the Gonaïves committee more than doubled during this period.

48. Some 40 members of human rights organizations from throughout the country took part in a seminar from 8 to 13 November, organized by MICIVIH on behalf of the Office of the United Nations High Commissioner for Human Rights, which has a technical cooperation agreement with the Haitian Government. The seminar's aim was to reinforce the functional capacity of non-governmental organizations by deepening the participants' theoretical and practical knowledge of national and international human rights mechanisms, recourses and themes. Speakers included some 30 national and international human rights experts. One of the high points of the week was a public round-table discussion on the theme "Economic, social and cultural rights and the rights of Haitians". This seminar constituted the first of a three-part project funded by the Office of the High Commissioner.

49. Other training activities included the three-month project of training-of-trainers seminars organized around the country in conjunction with the *Secrétairerie à l'Alphabétisation*, which ended in June. A nationwide programme organized by the Ministry of Education to develop and incorporate civic education at all levels of the school curriculum was another important development. The programme was launched in September with a two-day conference and has been supported by the provision of documents and other materials by MICIVIH.

50. Public information on the human rights situation and on mission activities was disseminated through reports and press releases, which, for the most part, received wide coverage, including regular interviews with the media. Five hundred people visited a MICIVIH stand at the *Festival du Nord* in Cap Haïtien on 13 August, which stimulated much interest in the Mission's work and publications.

51. One of the Mission's major projects was the completion of a video documentary, entitled *A Work in Progress: Human Rights in Haiti*, the Creole version of which was launched around the country on 30 September. It focused on the long struggle for human rights and dignity in Haiti, on institutional reform and the activities of MICIVIH that contribute to these reforms. Several hundred people, including government, police and judicial officials, attended the opening in Port-au-Prince.

# IV. Observations, conclusions and recommendations

52. MICIVIH has been deployed in Haiti since February 1993. Its mandated responsibilities, composition and *modus operandi* of the joint mission have evolved since then in accordance with the changing realities of the situation on the ground. A series of factors (evacuation, expulsion, an improved human rights situation and financial constraints) have led to fluctuations in the size of the Mission. In October 1993, during the *coup d'état* period, the Mission reached a peak of 200 staff. The Mission was reduced in early 1994 to 80 staff, but increased to 180 during the initial period of return to constitutional order. It was again reduced to 60 in 1996 and subsequently increased slightly to 80. It will be recalled that I informed the General Assembly, in my letter of 6 August 1999 (A/54/211) that the Secretary General of the Organization of American States (OAS) had written to me on 4 June 1999 informing me that, owing to recent financial constraints experienced by the Organization, an imminent reduction of the OAS component of MICIVIH would be necessary. As of 1 July 1999, OAS has withdrawn 34 members of its personnel with the exception of one, the Executive Director, who has been jointly appointed by the Secretary General of OAS and myself, leaving the current staff level at 40. Five of MICIVIH's regional offices have been closed since that date.

53. Initially mandated to observe a situation characterized by widespread and systematic human rights abuses during the latter part of the *coup d'état* period (February 1993 to September 1994), MICIVIH's responsibilities were broadened at the return to constitutional order to include support for the processes of governance and democracy. In view of the importance of civil society in the protection of human rights and the deepening of democracy, the Mission also focused on local capacity-building.

54. The three major strands of the Mission's mandate (observation, institution-building and human rights promotion) have always been approached in an integrated manner. Monitoring has been regarded as pivotal in that it helps identify institutional problems and needs, which can in turn be addressed through training, technical cooperation and promotion. Monitoring and verification also provide feedback on the impact of these remedial activities.

55. Adopting an approach it called "active observation", the Mission staff has documented and investigated human rights abuses, as well as regularly visiting prisons, police custody cells and attending court sessions. It also made representation on behalf of victims and publicly denounced violations, as well as disquieting trends in the human rights situation. Additionally, during the earlier part of the Mission, it instituted legal and medical programmes for victims. It has also facilitated the establishment and subsequent reinforcement of victims' associations.

56. Institution-building and training have helped offset the irritation that constant monitoring can elicit from State officials and agents under close scrutiny. Since the return to constitutional order, there has been a shift in the attitude of the authorities from the adversarial stance of the *coup d'état* regime to the present collaborative environment. As a result, the Mission has tended to favour persuasion and other less public approaches, using public denunciation of human rights abuses and violations of due process as a measure of last recourse. This strategy stems from respect for the sovereignty of the State and from the recognition that the authorities have taken steps towards holding members of the security forces accountable for their actions.

57. Providing expert advice to help improve the quality of justice rendered, supporting judicial reform, helping to revamp the inhumane prison system, improving the human rights conduct of the new police force and facilitating the emergence of new state and civic institutions are essential elements of the Mission's activities in the area of institution-building. This has been done through diagnosis and recommendations, training, furnishing technical assistance (sometimes through short-term consultancies in specialized areas where the Mission lacks expertise), mentoring and encouraging conceptualization and public debate on key issues such as habeas corpus and impunity. Varying levels of institutional readiness, fluctuating political will and the complexity of the tasks at hand have impinged on the reform process and led to uneven results.

58. Human rights promotion and advocacy, along with civic education, are seen as a means of strengthening the capacity of State institutions and civil society organizations. But they are also instruments of change that contribute to the strengthening of a democratic culture by raising public and institutional awareness of the importance of rights and obligations in a burgeoning democratic State and by broadening knowledge of the nature and functions of democratic institutions. The Mission has produced didactic materials adapted to local realities and used teaching seminars and workshops directed by Haitian trainers, as well as a wide variety of media (video projections, radio and television programmes and spots) and cultural forms (exhibitions, art, dance, theatre, puppet shows) to disseminate these messages.

59. Acutely aware of its ad hoc and temporary nature, the Mission has been pursuing a three-pronged exit strategy: strengthening the state institutions responsible for ensuring respect for human rights, reinforcing the capacity of civil society organizations and the media in the area of human rights monitoring and investigation and developing a body of documents, studies and data on key institutions and human rights issues which have been made public.

60. Since the return to constitutional order, there has been a qualitative change in the human rights situation as concerns the enjoyment of fundamental freedoms and the behaviour of the security forces. Accountability has become a vital aspect of the new institutional ethos of the police. Systematic politically motivated human rights violations have ceased to be a recourse in the repressive arsenal of the State. This notwithstanding, there is still considerable room for improvement as concerns the human rights conduct of the police, in particular with regard to respect for life and physical integrity.

61. The Haitian National Police does not yet enjoy institutional maturity and self-confidence, nor is it well equipped in techniques and resources, human and material, to deal efficiently with the challenges of persistent crime and insecurity. Continued support for its institutional consolidation and for the professionalization of its members is therefore critical.

62. The increasing recourse to political intimidation and acts of violence is a disquieting return to methods one would have hoped had ended. It also marks a further deterioration of the political climate and an erosion of the nascent democratic process. All leaders with political and moral influence must combine their efforts to reverse this trend.

63. Haiti finds itself at a critical juncture, with the electoral process about to be launched at a time when the political and security climate is far from conducive to it. This is a direct consequence of over two years of a protracted and multi-faceted crisis that has exacerbated all the fault lines

in a society that continues to be deeply divided politically and socially.

64. The crisis and the accompanying political instability, government paralysis and widespread disillusionment have shaped the public perception that little has improved since the return to constitutional order. The elections for Parliament, municipalities and local government councils and assemblies are a necessary prerequisite for a return to constitutional normality. Elections, however, may not result in political normality if the underlying critical issues are not addressed, in particular the lack of a broad consensus on social and economic development policies and on the exercise of political power.

65. The persistent professional and ethical shortcomings of a yet to be reformed judicial system continue to be a source of endemic due process violations. They also constitute an increasingly serious obstacle to performance of the police in the area of law and order. Despite very real improvements in the penal system and the conditions of detention, formidable obstacles remain. New State institutions such as the Office of the Ombudsman remain embryonic and require the support of the State with regard to their unmet resource needs as well as the technical assistance of the international community for their institutional development.

66. In the domain of civil society, the well-established human rights organizations have the institutional depth and access to resources which ensure sustainability. The same cannot be said about groups which have emerged more recently, some with the support of the Mission.

67. The International Civilian Mission in Haiti has helped put in place some of the essential building blocks of the rule of law through its institutional development activities, human rights advocacy and capacity-building work. However, Haiti is still in the early stages of transition towards a full-fledged democracy, challenged and confronted as it is by all the structural and political obstacles that beset countries undergoing such changes. The process of reform and consolidation is far from complete and will require further concerted efforts to achieve significant progress. It is quite clear that there are still a number of areas in which the United Nations can continue to provide technical and other support in response to the request of the Haitian authorities for assistance in the strengthening of institutions and civil society.

68. As called for in paragraph 11 of Security Council resolution 1212 (1998) of 25 November 1998 and in paragraph 5 of General Assembly resolution 53/95 of 8 December 1998, I have given indications in my previous reports to the General Assembly (A/53/950) and to the Security Council (S/1999/908 and S/1999/1184) of the ways in which the international community could continue to assist Haiti. Since then, consultations have taken place with the Haitian authorities both in Port-au-Prince and at Headquarters. I also dispatched a United Nations needs assessment mission, which visited Haiti from 11 to 15 October, to make recommendations for a possible successor mission following the end of the mandates of MIPONUH and MICIVIH. The mission consulted closely with the Haitian authorities and the international community in Haiti. I forwarded the report of the needs assessment mission (A/54/629) to the President of the General Assembly on 22 November 1999, with the request to bring it to the attention of, and for the consideration by, the members of the General Assembly.

69. Therefore, the General Assembly may wish to consider the establishment of a new mission to consolidate the gains achieved by the Haitians with the support from MICIVIH and MIPONUH, as requested, on 8 November 1999, by the President of Haiti, René Préval (see S/1999/1184). The new mission, headed by my representative, would pursue the activities of its predecessors in the areas of institutional consolidation of the police, judicial reform, capacity-building and human rights verification and advocacy. In addition to supervising the activities of the mission overall, my representative would also be responsible for coordinating political relations with the Government of Haiti as well as assisting in coordinating the support of bilateral donors. As in the past, the United Nations resident coordinator would continue as the deputy to my representative, and would help coordinate the activities of the United Nations system in Haiti.

70. The new mission should pursue a coordinated and integrated approach to enhance the effectiveness of governance, improve the climate of respect for human rights and reinforce the institutional effectiveness of the police and the judiciary. The mission's activities, limited in time and scope, would be complementary to other multilateral and bilateral programmes devised within the framework of Economic and Social Council resolution 1999/11 of 27 July 1999, which calls for the formulation of a long-term programme of development for Haiti. In this way the international community would continue to support the efforts of the Haitian Government and of the people of Haiti in their difficult quest to construct a democratic society.

71. In conclusion, I would like to commend the Executive Director, Colin Granderson, and the staff of MICIVIH for the outstanding commitment with which they have carried out the Mission's mandate over a long period of time. I also wish to thank OAS for its excellent cooperation with the United Nations since the inception of the Mission.